
UTAH LABOR COMMISSION

DAVID D'ADDABBO,

Petitioner,

vs.

**ALLSTATE INSURANCE CO. and
HARTFORD INSURANCE CO.,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 04-0568

David D'Addabbo asks the Utah Labor Commission to review Administrative Law Judge Hann's denial of Mr. D'Addabbo's claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

Mr. D'Addabbo slipped and fell while working for Allstate Insurance Co. on March 10, 2003. He subsequently filed an application for hearing with the Commission to compel his employer and its insurance carrier, Hartford Insurance Co. (referred to jointly as "Allstate" hereafter), to pay workers' compensation benefits for his injuries.

Judge Hann held an evidentiary hearing on Mr. D'Addabbo's claim and then referred the medical aspects of the claim to a medical panel. After receiving the panel's report, Judge Hann concluded that Allstate had already paid Mr. D'Addabbo the benefits he was entitled to receive.

In requesting review of Judge Hann's decision, Mr. D'Addabbo suggests that Judge Hann and the members of the medical panel have a conflict of interest because they may have insurance coverage or other professional relationships with Allstate. Mr. D'Addabbo also challenges the accuracy of Judge Hann's findings of fact.

FINDINGS OF FACT

Based on the testimony and medical records submitted into evidence, as well as the medical panel's report, the Commission adopts Judge Hann's findings of fact. In summary, Mr. D'Addabbo suffered from a long history of serious, chronic and symptomatic back pain. Prior to the work accident which gives rise to his claim for workers' compensation benefits, Mr. D'Addabbo was taking medication and receiving medical care for increasing back pain.

On March 10, 2003, while Mr. D'Addabbo was on a business trip for Allstate, he slipped and fell as he loaded a suitcase into the trunk of his rental car. He performed his work duties that day, but "blacked out" the next morning in his motel room. The next day he returned to Utah to recuperate.

Thereafter, Mr. D'Addabbo received medical care and underwent diagnostic exams. Dr. Bedell, one of Mr. D'Addabbo's treating physicians, concluded that a causal connection existed between Mr. D'Addabbo's work accident and his continuing medical problems. Dr. Chung, Allstate's medical consultant, reached the contrary conclusion that Mr. D'Addabbo's work accident caused only a temporary aggravation of his preexisting problems.

In light of the difference of opinion between Dr. Bedell and Dr. Chung, Judge Hann referred the medical aspects of Mr. D'Addabbo's claim to a medical panel. The panel, which consisted of a neurologist and orthopedist, reviewed Mr. D'Addabbo's entire medical history and the results of his diagnostic studies, as well as the opinions of other physicians who had treated or examined Mr. D'Addabbo. The panel also personally examined Mr. D'Addabbo. The panel then concurred with Dr. Chung's opinion that Mr. D'Addabbo's work accident resulted in a temporary aggravation of his preexisting condition. The panel also concluded that Mr. D'Addabbo had achieved medical stability from the results of his work accident on May 20, 2003.

Judge Hann accepted the medical panel's report and, on that basis, concluded that Mr. D'Addabbo was not entitled to any additional workers' compensation benefits beyond the benefits Allstate had already paid.

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-401 of the Utah Workers' Compensation Act requires employers to pay workers' compensation benefits to employees injured by accident "arising out of and in the course of" their employment. In other words, only work-related injuries are compensable under the Act, and injuries are not work-related unless the work is both the "legal" and the "medical" cause of injury. Allen v. Industrial Commission, 729 P.2d 15 (Utah 1986). It is the question of medical causation that is at issue in this case.

The determination of medical causation in workers' compensation proceedings can involve complex medical issues. For that reason, §34A-2-601 of the Act authorizes the Commission's administrative law judges to appoint impartial medical panels to consider the medical aspects of workers' compensation claims. The Commission's Rule 602-2-2 establishes the circumstances when administrative law judges should appoint a medical panel. There is no dispute that the conditions of Rule 602-2-2 were satisfied in this case and that Judge Hann properly appointed a medical panel to consider the medical aspects of Mr. D'Addabbo's claim. What is in question is the degree of reliance that should be placed on the medical panel's report.

Mr. D'Addabbo suggests that the experts who served on the medical panel may have had other relationships with Allstate. For example, the panel members might receive payments from Allstate for medical services rendered to Allstate's insureds. Mr. D'Addabbo also suggests that the panel members and Judge Hann may have insurance coverage with Allstate. Mr. D'Addabbo argues

that these types of relationships would prevent the medical panelists and Judge Hann from fairly performing their duties with respect to Mr. D'Addabbo's case.

The Commission does not accept Mr. D'Addabbo's argument. First, Mr. D'Addabbo has not established that any of these relationships actually exists. But even if the Commission assumes, for purposes of discussion, that the relationships do exist, the Commission does not believe they would affect the impartiality or judgment of the panelists or Judge Hann. Furthermore, the panel's opinion and Judge Hann's decision are fully supported by the evidentiary record. There is no indication of any bias against Mr. D'Addabbo or favoritism to Allstate. The Commission therefore concludes that Mr. D'Addabbo's motion for review of Judge Hann's decision is without merit.

ORDER

The Commission affirms Judge Hann's decision. It is so ordered.

Dated this 14th day of February, 2007.

Sherrie Hayashi
Utah Labor Commissioner